

## **Catawba County Health Insurance Portability and Accountability Act (HIPAA) Policy**

I. This policy is an overview of Catawba County's responsibility for compliance under the HIPAA, also known as "The Act" in this document. Several departments within the County have different responsibilities for compliance with the Act. Persons reviewing this policy are directed to the departments identified below for specific answers.

A. The County's business activities include functions that are covered under HIPAA, and functions that are not covered under HIPAA. Catawba County provides a variety of services to the public and has declared itself a Hybrid Entity with respect to HIPAA. As a hybrid entity, only the County's health care components are required to comply with the requirements of the privacy rule. Those County departments designated as Healthcare Components under HIPAA are:

Emergency Services  
Information Technology  
Personnel  
Public Health  
Mental Health  
Sheriff  
Social Services

Each department will address the specific application of HIPAA for their functions. The information addressed will include:

- Mandatory requirements
- Covered function activities
- Business associate components

### **II. Background – What is HIPAA?**

**Insurance Coverage & Portability:** The Health Insurance Portability and Accountability Act (HIPAA) of 1996 was enacted to make health insurance more "portable" from one employer to another. The law mandates procedures for both new hires and for existing employees who are leaving their current employer. Employees who are new to a company can use evidence of previous health care coverage that is provided by their former employer to reduce or eliminate the new employer's preexisting condition requirements. Employees who are leaving must be provided a certificate of prior creditable health care coverage to use for this purpose. The law includes other provisions regarding restrictions on preexisting conditions, special enrollment rights and protections against discrimination.

HIPAA also defined a series of rules governing health information and restrictions regarding conditioning benefits on an insured employee's preexisting conditions. The impact of the Act is making significant changes in several areas related to health care and health insurance. In general, the rules are also intended to standardize the communication of electronic health information between health care providers and health

insurers. In addition, the rules are intended to protect the privacy and security of individually identifiable health information. For ease in applying to County departments, the Act may be viewed in two sections:

**Health Insurance:** The provisions that received the most attention at the time of enactment related to the creation of new health insurance protections for workers who changed jobs and the modification of certain health insurance fraud and abuse enforcement tools. This section of the Act is generally managed by the Personnel Department as applicable to the hiring of and terminating an employee. Open enrollment for benefits and flexible benefit plans are also affected.

**The HIPAA Privacy Rule:** The HIPAA Privacy Rule governs how “covered entities” may use and disclose “protected health information (PHI).” It also establishes a comprehensive framework for the use and disclosure of identifiable health information, and establishes individual rights. The privacy rule addresses:

- When and how a covered entity may use or disclose PHI
- Individual rights regarding PHI
- Organizational requirements
- Relationships between covered entities and other entities
- Administrative requirements.

A. Other terms & conditions referenced by HIPAA

1. **Requirement to designate a Privacy and Security Officer** – At the time this policy was written the Personnel Director has been designated the Privacy and Security Officer for Catawaba County.
2. **Business Associates(Vendor Contracts)** - A “business associate” is a person or entity who either performs certain functions or activities on behalf of a covered entity or who provides certain services. Technically HIPAA also defines a “business associate” as a third party that uses identifiable health information to provide services to or for the covered entity or otherwise assist the County with its activities. When any County department enters into a contract for a service that is covered by HIPAA, the contract must address protection of information
3. **Employee Responsibility** – Any County employee who violates the provisions of HIPAA or this policy is subject to disciplinary action as a conduct violation. This discipline can be up to and including termination of employment.

4. **Complaints** – Any person who believes any part of this policy or the Act has been violated shall file a complaint with the Privacy Officer.
5. **Workers Compensation** - PHI may be disclosed in order to comply with and administer the County's workers' compensation laws and program.
6. **Workstation Use and Security** - Any County employee with a workstation or who completes and/or processes paperwork that may contain any PHI shall take every measure available to ensure the information is handled within the scope of this policy. Screensavers, locked file cabinets, limited access to files are just a few measures that employee's must take to meet the spirit of HIPAA.
7. **Other Rules or Regulations** - There are several other federal and state rules or regulations that may address issues contained within this policy or HIPAA; including but not limited to the Americans with Disabilities Act, the Rehabilitation Act of 1973, and Department of Labor rules including workers compensation act.

## **B. Administrative Simplification Regulations**

One subtitle of HIPAA that stands apart from the rest of the statute is entitled "Administrative Simplification." This subtitle includes several different provisions that require the (DHHS) to publish regulations relating to health information data interchange and data protection. DHHS has issued regulations that include: transactions and code sets, privacy, security, provider identifier, plan identifier, employer identifier, claims attachments and enforcement. The Administrative Simplification Regulations of HIPAA will standardize many of the electronic transactions so that health care providers and health plans will all "speak the same language," thereby reducing administrative costs.

## **C. Electronic data interchange (EDI) regulations:**

The EDI regulations are intended to standardize electronic communications between and among health care providers, health insurance plans and other players in the health care industry in order to reduce administrative burden.

## **D. Data protection regulations:**

These regulations are intended to ensure the privacy and security of individually identifiable health information maintained by entities covered by HIPAA.

## **III. Who is Regulated by the HIPAA Privacy Rule?**

- A. "Covered Entities" are Regulated: HIPAA directly regulates the following three types of "covered entities":

1. **Health plans:** The County provides a self-insured health and dental plan. Vision is included with the health plan, and through an optional discount plan. The

County offers a flexible spending account plan. Except for new employee orientation, the enrollment is generally through an online open enrollment process. Status changes are processed either in person or via courier with mail marked “confidential.” With the administration of these benefits, the County is a health care provider. The budget at the time this policy is written falls under the HIPAA definition of “small plan.”

2. **Health care clearinghouse:** Catawba County is not a health care clearinghouse, which is generally defined as an entity that converts information from one electronic format into a HIPAA electronic format, and vice versa. Clearinghouses also help providers and health plans standardize their health information
3. **Health care providers** – Those who transmit health information in electronic form in connection with a HIPAA transaction. Health care provider: Select County Departments are covered because they meet the definition of “health care provider”. , Emergency Medical Service, Public Health, Mental Health, and Social Services meet the definition of “health care providers” by type services they perform and because they transmit HIPAA transactions electronically.

#### **IV. Protected Health Information:**

Protected health information (PHI) is individually identifiable health information. PHI can be information about a person that a department holds in electronic format, information in paper records, and information that is communicated orally. PHI can also be health or demographic information that a covered entity creates on its own, receives from some other source and that includes anything that could reasonably identify an individual for example, age, address, e-mail address, and relates to a person’s past, present, or future physical or mental health or condition and related health care services and/or that

- Is or contains the provision of health care to the individual;
- Or the past, present, or future payment for provision of health care to the individual.

A. **Use and disclosure of PHI:** Any healthcare component department covered by HIPAA may only use or disclose protected health information:

- For purposes that are permitted or required by the rule, and
- In the ways that are permitted or required by the rule

B. **Required disclosures:** By law, an individual’s health information must be disclosed to the individual unless it has been determined by a competent medical authority that it would be harmful to that individual. The County must also disclose information to the Secretary of the Department of Health and Human Services for investigations or determinations of our compliance with laws on the protection of health information.

- The privacy rule requires disclosure of PHI in only two circumstances:
  1. Upon request to the individual who is the subject of the information
  2. When required by the Secretary of US DHHS to investigate or determine the covered entity's compliance with the privacy rule

**C. Uses and disclosures for treatment, payment, and health care operations –** defined elsewhere

**D. Uses and disclosures requiring the individual's permission**

- These must be accompanied by the individuals specific authorization
- Those requiring the covered entity to give the individual an opportunity to agree or object.

**E. Use or Disclosure of Information without a Patient's Permission -** The privacy rule allows some health information in a variety of circumstances without the patient's permission. Generally, the only times information may be given without permission is in an effort to fight crime, understand disease, and to protect the public health. The rule provides broad authority for disclosures that are "necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public." These disclosures must be consistent with applicable law and ethical standards, be made in good faith, and be made to a person reasonably able to prevent or lessen the threat.

1. In the event any County department must use or disclose information without a patient's permission, the department shall make a written report to the privacy officer within two working days of the event. Verification requirements apply when releasing PHI without an individuals permission

**F. Incidental disclosures –** Component Departments define these.

**G. HIPAA gives individuals certain rights (Patients' Rights) -**

- Right to receive a notice of privacy practices
- Right to access, inspect, and copy their own PHI
- Right to have PHI amended
- Right to request and receive an accounting of disclosures of their PHI
- Right to request additional protections

**V. General Rule Requirements:**

- Make sure protected health information is kept private.

- Give notice of legal duties and privacy practices related to the use and disclosure of PHI.
- Follow the terms of the notice currently in effect.
- Communicate any changes in the notice to affected individuals.
- Given in Provision of County Service - An agent of the County will use and disclose a client's PHI to provide, coordinate, or manage health care and general operating services. This includes the coordination or management of health care with a third party.
- For anything other than TPO (Treatment Payment or Healthcare Operations) an individual's permission is required.